THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.15134 of 1999

21.6.2007

Between:

Kanukuntla Raja Reddy, S/o.Venkat Reddy

… Petitioner

AND

The District Collector and Agent to the Government, Adilabad

And others

… Respondent

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.15134 of 1999

ORDER:

Petitioner seeks a writ of Certiorari to call for records connected with the order of the first respondent dated 02.1.1999 in Appeal No.B4/Ag/9/97 and to quash the same as illegal and contrary to law.

The brief fact of the matter is that the petitioner purchased land admeasuring Ac.1.00 in survey No.28/1 situated at Danthanpalli village of Utnoor Mandal in Adilabad District, from Mohammed Hanja, father of the fourth respondent. The second respondent initiated *suo motu* action on a complaint given by the Mandal Revenue Officer, Utnoor Mandal (MRO), under Section 3(2) of Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1959 (Regulation, for brevity), as amended by Regulation I of 1970. After receiving the notice, petitioner opposed the case *inter alia* on the ground that as the sale was prior to coming into force of Regulation I of 1970, the action initiated is unsustainable. Overruling the objection, second respondent passed orders on 17.5.1997 directing ejectment of the petitioner from the land and to remain the land in the custody of the Government until further orders. The petitioner appealed under Section 3(3)(a)(ii) of the Regulation unsuccessfully. The appeal was dismissed on 02.1.1999.

A counter affidavit is filed before this Court opposing the writ petition and sustaining the impugned order. It is stated that the petitioner purchased the land under an unregistered ordinary sale deed dated 15.5.1968 for a consideration of Rs.16,000/- but in the pahanis and other revenue records from 1969-1970 the petitioner's name was not found. On verification it was noticed that the petitioner's name as cultivator was shown in the pahanis from 1978-1979. Though the petitioner was given notices he failed to produce registered document and certified copies of pahanies and therefore both the authorities took the view that the transactions made by the

father of the petitioner are hit by the Regulation. No reply affidavit is filed denying the counter averments.

Learned Counsel for the petitioner submits that Regulation I of 1970 cannot be applied retrospectively and as the petitioner purchased the property prior to Regulation I of 1970 coming into force, the Regulation has no application to the transaction under which the petitioner became the owner. This contention is refuted.

There is no denial that Regulation I of 1959 was brought into force in Telangana region with effect from 01.12.1963. Regulation I of 1970 substituted Section 3(1) of Regulation I of 1959. Even after such substitution, the effect of Section 3(1)(a) of Regulation I of 1959 is not taken into. Even otherwise, when a provision under which statute is substituted by subsequent amendment, such substitution dates back to date of enactment of the original provision. Therefore, the petitioner cannot contend that Regulation I of 1970 has retrospective effect. The transaction admittedly took place on 16.5.1969 after coming into force of Regulation I of 1959 with effect from 01.12.1963 and therefore the Regulation I of 1970 squarely is applicable to the present case. Secondly, the petitioner purchased the property under an unregistered sale deed and there was no proof produced that he did so. The authorities perused the entries in the revenue records and came to the conclusion that the petitioner's name as cultivator was found only from 1978-1979 onwards.

The writ petition is devoid of any merits and is accordingly dismissed. No costs.

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(**V.V.S.RAO, J**)

June 21, 2007.
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